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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/006,693	12/10/2001	Robert Sesek	10012626-1	3065
75	90 01/13/2006		EXAM	INER
HEWLETT-PACKARD COMPANY			MCALLISTER, STEVEN B	
Intellectual Prop	perty Administration			
P.O. Box 272400 Fort Collins, CO 80527-2400			ART UNIT	PAPER NUMBER
			3627	
			DATE MAILED: 01/13/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	Application No.	Applicant(s)				
	10/006,693	SESEK ET AL.				
Office Action Summary	Examiner	Art Unit				
	Steven B. McAllister	3627				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION  16(a). In no event, however, may a reply be time  11 apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 25 Oc	ctober 2005.	•				
<u></u>						
3) Since this application is in condition for allowan	<del></del>					
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) <u>62-88</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>62-88</u> is/are rejected. 7)□ Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or	election requirement					
are subject to recure and an area						
Application Papers						
9)☐ The specification is objected to by the Examine	<b>:</b> .					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the o						
Replacement drawing sheet(s) including the correcti						
11) The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action of form PTO-192.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau	' ''					
* See the attached detailed Office action for a list of	of the certified copies not receive	cd.				
Attachment(s)						
1) X Notice of References Cited (PTO-892)	4) Interview Summary					
2) D Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Da	ate atent Application (PTO-152)				
<ol> <li>Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)</li> <li>Paper No(s)/Mail Date</li> </ol>	6) Other:	atomir opphioduoit (i 10°106)				

Art Unit: 3627

## **DETAILED ACTION**

## Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 62-88 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 62 and 79 recite access to "usage information indicative of usage of an expendable which is used over a period of time" and comparing the "usage information with the usage profile data". However, the specification and original claims appear only to describe access to usage rate information and comparison of the usage rate information with the usage profile data [indicative of expected usage rate]. The recitation of accessing and comparing usage information, as opposed to usage rate information, does not appear to be described in the original specification in such as way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Art Unit: 3627

# Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 62, 66-71, 79-82, 84 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thieret (5,923,834) in view of Paton.

Thieret shows a controller configured to access usage rate profile data, comprising stored wear rate data or use rate of a consumable items; to monitor a parameter of the system indicating component wear or consumption of consumable items (e.g., col. 9, lines 50-55; col. 11, lines17-23); and to generate an alert. Thieret does not explicitly show comparing the parameter with the usage rate data and generating the alarm when parameter deviates from the rate profile data. Paton shows comparing the parameter with the rate profile data, and generating an alert when the parameter deviates from the rate profile data. It would have been obvious to one of ordinary skill in the art to modify the method of Thieret by performing the steps of Paton in order to provide a warning when maintenance may have to be performed sooner than expected.

As to claims 66 and 82, Thieret in view of Paton show usage wear comprising wear of a consumable part.

As to claim 67, Thieret in view of Paton show all elements except that the controller is configured to identify the type of imaging occurring and to adjust the

Art Unit: 3627

indication of wear responsive to the identification. However, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of Thieret by configuring the controller to identify the type of imaging occurring and to adjust the indication of wear responsive to the identification in order to better deal with different types of imaging situations.

As to claims 68, Thieret in view of Paton show usage profile information derived from prior consumption of the consumable.

As to claims 69, 70, 77, 78, 84 and 85, Thieret in view of Paton show all elements of the invention except disabling the system and means for doing so. Thieret in view of Paton does however, show determining that there is a hardware failure within the system (e.g., pg. 4, lines 3-12 of Paton). The examiner takes official notice that it is notoriously old and well known in the art to disable a malfunctioning system (and to provide a means for doing so). It would have been obvious to one of ordinary skill in the art to further modify the method of Thieret by disabling a malfunctioning system in order to prevent further damage.

As to claim 71, it is noted that Thieret in view of Paton shows auto-reordering.

Claims 62-65, 68 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over LoBiondo et al (5,305,199) in view of Paton (EP 0822524).

LoBiondo shows a controller configured to access usage rate profile data, comprising use rate of a consumable items; to monitor a parameter of the system indicating or consumption of consumable items; and to generate an alert. LoBiondo

does not explicitly show comparing the parameter with the usage rate data and generating the alarm when parameter deviates from the rate profile data. Paton shows comparing the parameter with the rate profile data, and generating an alert when the parameter deviates from the rate profile data. It would have been obvious to one of ordinary skill in the art to modify the method of LoBiondo by performing the steps of Paton in order to provide a warning when additional consumables may be required sooner than expected.

As to claims 63 and 64, LoBiondo in view of Paton shows monitoring media usage comprising paper usage (see e.g., Fig. 3 of LoBiondo).

As to claim 65, LoBiondo in view of Paton shows monitoring a plurality of consumables (paper and toner).

As to claims 68, LoBiondo in view of Paton show usage profile information derived from prior consumption of the consumable.

As to claim 72, LoBiondo in view of Paton show all elements except that the controller accesses a budget plan, determines the cost of the consumption and generates an alert when the cost is over budget. However, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of LoBiondo by having controller access a budget plan, determine the cost of the consumption and generate an alert when the cost is over budget in order to avoid excess costs.

Art Unit: 3627

Claims 73, 75, 76, 83, 86, 87, 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thieret in view of Paton as applied to claims 62 and 79 above, and further in view of Hopper et al (2003/0071726).

Thieret in view of Paton show all elements of the claims except adjusting usage data to show an increased or decreased usage in response to detection of a particular type of imaging. Hopper shows this element. It would have obvious to one of ordinary skill in the art to modify the apparatus and method of Thieret by doing so in order to more accurately reflect resource expenditure.

## Allowable Subject Matter

Claim 74 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

## Response to Arguments

Applicant's arguments filed 10/25/2005 have been fully considered but they are not persuasive.

Regarding Applicant's argument regarding motivation regarding the references, the Examiner respectfully disagrees. The test for combining references is what the references as a whole would have suggested to one of ordinary skill in the art. See e.g., *In re Sheckler*, 168 USPQ 716 CCPA 1971); *In re McLaughlin*, 170 USPQ 209 (CCPA 1971).

Regarding Applicant's argument believed to be directed toward nonanalogous subject matter, the examiner notes that it would have been reasonable to look to Paton

Art Unit: 3627

since both references are concerned with the same subject matter - monitoring of expendable items of a system.

Regarding applicant's argument that the teachings of Paton are redundant, the examiner notes that it is possible to use the data as taught by Thieret and to modify the system to use it as taught by Paton as well.

As to Applicant's arguments regarding Official Notice, the examiner notes that Applicant's traversal is inadequate. MPEP 2144.03(c) requires that the Applicant the subsequent action adequately traverse the statement that certain subject matter is old and well known art. It further notes that an adequate traversal must state why it is believed that the subject matter is not old and well known. In view of the inadequate traversal, and in light of the requirements of 2144.03(c), the examiner notes that the well known in the art statements of the previous Office Action are considered to be admitted prior art.

## Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Application/Control Number: 10/006,693 Page 8

Art Unit: 3627

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Steven B. McAllister whose telephone number is (571)

272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free).

Steven B. McAllister Primary Examiner Art Unit 3627

Steven B. McAllister

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STEVE B. MCALLISTER
PRIMARY EXAMINER